

From: 73637-12067297@requests.muckrock.com <73637-12067297@requests.muckrock.com>

Sent: Monday, May 27, 2019 6:14 PM

To: FOIA-CEII

Cc: FOIA-CEII

Subject: RE: Freedom of Information Act Request: First FOIA (Federal Energy Regulatory Commission)

Federal Energy Regulatory Commission
FOIA Office
888 First Street Northeast
Washington, DC 20426

May 27, 2019

This is a follow up to a previous request:

You are obliged to search, especially as the attachment to the original request has a provision for if the documents were destroyed or sent to NARA.

Filed via MuckRock.com

E-mail (Preferred): 73637-12067297@requests.muckrock.com

Upload documents directly:

https://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Ffederal-energy-regulatory-commission-206%252Ffirst-foia-federal-energy-regulatory-commission-73637%252F%253Femail%253DFOIA-CEII%252540ferc.gov&url_auth_token=AAAawyQJctRkvxj5UXjeYM6dEM4%3A1hVNsx%3Ak9BVzmN49CcmIIvnx8ZWAYrhg_o

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For mailed responses, please address (see note):

MuckRock News

DEPT MR 73637

411A Highland Ave

Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly

addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

On May 20, 2019:

To Whom It May Concern:

Pursuant to the Freedom of Information Act, I hereby request the following records:

*Documents generated as part of the creation of the FOIA office (defined as whatever department, office, or coordinator is responsible for overseeing and/or processing FOIA requests), whether this was at the time of the agency's creation or the passage of the Freedom of Information Act, to include:

1. The instruction to do so from the Agency, as well as any guidance from the senior leadership
2. Documents discussing proposals and procedures
3. Any legal guidance or analysis produced or acquired by the Agency in response to or as part of the creation of the FOIA office
4. Internal documents from the press office, legislative liaison's office (or equivalent), general counsel's office (or equivalent), director's office (or equivalent) or the newly created FOIA office, reacting to or characterizing the office and its creation

* A copy of the agency's first perfected (successful) FOIA request

* Copies of other FOIA requests filed before the FOIA request described above

* Processing notes, search slips and response documents regarding the FOIA requests described above

* The first set of guidelines, instructions and/or forms created to control the agency's processing of FOIA requests

* A copy of the agency's first successful FOIA appeal

* Copies of other FOIA appeals received by the agency before the appeal described above

* Processing notes, search slips and response documents regarding the FOIA appeals described above

* The first set of guidelines, instructions and/or forms created to control the agency's processing of FOIA appeals

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Emma Best

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E-mail (Preferred): 73637-12067297@requests.muckrock.com

Upload documents directly:

https://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Ffederal-energy-regulatory-commission-206%252Ffirst-foia-federal-energy-regulatory-commission-73637%252F%253Femail%253DFOIA-CEII%252540ferc.gov&url_auth_token=AAAawyQJctRkvxj5UXjeYM6dEM4%3A1hVNsx%3Ak9BVzmN49CcmIIvnx8ZWAYrhg_o

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I am a member of the news media and request classification as such. I have previously written about the government and its activities, with some reaching over 100,000 readers in outlets such as Gizmodo, MuckRock, Motherboard, Property of the People, AND Magazine, Unicorn Riot, and more. As such, as I have a reasonable expectation of publication and my editorial and writing skills are well established. In addition, I discuss and comment on the files online and make them available through non-profits such as the library Internet Archive and the journalist non-profit, MuckRock, disseminating them to a large audience. While my research is not limited to this, a great deal of it, including this, focuses on the activities and attitudes of the government itself. As such, it is not necessary for me to demonstrate the relevance of this particular subject in advance.

Additionally, case law states that "proof of the ability to disseminate the released information to a broad cross-section of the public is not required." Judicial Watch, Inc. v. Dep't of Justice, 365 F.3d 1108, 1126 (D.C. Cir. 2004); see Carney v. U.S. Dep't of Justice, 19 F.3d 807, 814-15 (2d Cir. 1994). Further, courts have held that "qualified because it also had "firm" plans to "publish a number of . . . 'document sets'" concerning United States foreign and national security policy." Under this criteria, as well, I qualify as a member of the news media.

Additionally, courts have held that the news media status "focuses on the nature of the requester, not its request. The provision requires that the request be "made by" a representative of the news media. Id. § 552(a)(4)(A)(ii)(II). A newspaper reporter, for example, is a representative of the news media regardless of how much interest there is in the story for which he or she is requesting information." As such, the details of the request itself are moot for the purposes of determining the appropriate fee category.

As my primary purpose is to inform about government activities by reporting on it and making the raw data available, I request that fees be waived.